

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| -vs- |) | Case No. CR-13-191-F |
| |) | |
| MARSIAL GARCIA, |) | |
| |) | |
| Defendant. |) | |

ORDER


The court is in receipt of a letter dated May 3, 2020, and filed of record on May 29, 2020, wherein defendant, Marsial Garcia, requests the court order that he serve the remainder of his sentence in a federal halfway house or on home confinement. Doc. no. 181.

The Bureau of Prisons designates the place of a prisoner's imprisonment. *See*, 18 U.S.C. § 3621(b). This court does not have power to dictate prisoner placements to the Bureau of Prisons. *See*, United States v. Cosby, 180 Fed. Appx. 13 (10th Cir. 2006) (unpublished decision cited as persuasive under 10th Cir. R. 32.1(A)). While the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. No. 116-136, § 12003(b)(2), 134 Stat. 281, at 516 (enacted March 27, 2020), gives the Bureau of Prisons broad discretion to expand the use of home confinement during the present pandemic, the court does not have authority to order home confinement under it. *See*, United States v. Read-Forbes, No. 12-20099-01-KHV, 2020 WL 1888856, at * 5 (D. Kan. Apr. 16, 2020) (citing United States v. Engleson, No. 13-cr-340-3 (RJS), 2020 WL 1821797, at *1 (S.D.N.Y. Apr. 10, 2020)); *see*

also, United States v. Nash, No. 19-40022-01-DDC, 2020 WL 1974305, at *2 (D. Kan. Apr. 24, 2020) (“The CARES Act authorizes the BOP—not courts—to expand the use of home confinement.”). Therefore, the court finds that defendant, Marsial Garcia’s letter request that the court order he serve the remainder of his sentence in a federal halfway house or on home confinement should be dismissed for lack of jurisdiction.

Accordingly, defendant, Marsial Garcia’s letter request that the court order he serve the remainder of his sentence in a federal halfway house or on home confinement (doc. no. 181) is **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED this 1st day of June, 2020.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE